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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

(Medford Division)

**LLOYD D. WHALEY and TODD L.  
WHALEY,**

Plaintiffs,

v.

**PACIFIC SEAFOOD GROUP, DULCICH,  
INC., FRANK DULCICH, PACIFIC  
SEAFOOD GROUP ACQUISITION  
COMPANY, INC., PACIFIC SEAFOOD  
WASHINGTON ACQUISITION CO.,  
INC., BANDON PACIFIC, INC., BIO-  
OREGON PROTEIN, INC., NORTH  
BEND OYSTER COMPANY, INC.,  
PACIFIC CHOICE SEAFOOD  
COMPANY, PACIFIC COAST  
SEAFOODS COMPANY, PACIFIC  
GARIBALDI, INC., PACIFIC GOLD  
SEAFOOD COMPANY, PACIFIC  
OYSTER CO., PACIFIC PRIDE SEA  
FOOD COMPANY, PACIFIC SEA FOOD  
CO., PACIFIC SURIMI CO., INC.,**

Case No.: 10-3057-PA

**PLAINTIFFS' MOTION TO COMPEL  
PRODUCTION OF PACIFIC SEAFOOD  
GROUP AUDITED FINANCIAL  
STATEMENTS**

**(Expedited Hearing Requested)**

**PAGE 1 – PLAINTIFFS' MOTION TO COMPEL  
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**PACIFIC TUNA COMPANY, LLC,  
WASHINGTON CRAB PRODUCERS,  
INC., PACIFIC AQUACULTURE, INC.,  
PACIFIC ALASKA SHELLFISH, INC.,  
SEA LEVEL SEAFOODS, LLC, ISLAND  
FISH CO., LLC, PACIFIC  
RESURRECTION BAY, PACIFIC  
CONQUEST, INC., CALAMARI, LLC,  
JO MARIE LLC, LESLIE LEE, LLC,  
MISS PACIFIC, LLC, PACIFIC FUTURE,  
LLC, PACIFIC GRUMPY J, LLC,  
PACIFIC HOOKER, LLC, PACIFIC  
HORIZON, LLC, PACIFIC KNIGHT,  
LLC, PRIVATEER LLC, SEA PRINCESS,  
LLC, TRIPLE STAR, LLC, PACIFIC  
FISHING, LLC, PACIFIC SEA FOOD OF  
ARIZONA, INC., STARFISH  
INVESTMENTS, INC., DULCICH  
SURIMI, LLC, BIO-OREGON  
PROPERTIES, LLC, PACIFIC GROUP  
TRANSPORT CO., PACIFIC  
MARKETING GROUP, INC., PACIFIC  
RUSSIA, INC., PACIFIC RUSSIA  
VENTURES, LLC, PACIFIC TUNA  
HOLDING COMPANY, INC., POWELL  
STREET MARKET LLC, PACIFIC  
FRESH SEA FOOD COMPANY,  
SEACLIFF SEAFOODS, INC., COPPER  
RIVER RESOURCE HOLDING CO.,  
INC., PACIFIC COPPER RIVER  
ACQUISITION CO., INC., SEA LEVEL  
SEAFOODS ACQUISITION, INC.,  
ISLAND COHO, LLC, S & S SEAFOOD  
CO., INC., PACIFIC SEAFOOD DISC,  
INC., OCEAN GOLD SEAFOODS, INC.,  
OCEAN COLD LLC, OCEAN PROTEIN,  
LLC, OCEAN GOLD FISHERIES LLC,  
and OCEAN GOLD TRANSPORT LLC,**

Defendants.

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Pursuant to LR 7-1, the parties have made a good faith effort to resolve this dispute, but have been unable to do so.

The parties are on a fast track discovery and briefing schedule in connection with plaintiffs' motion to enjoin Pacific Seafood Group's proposed acquisition of Ocean Gold Group. Plaintiffs' pleadings in support of the motion are due December 13, 2010 and the hearing is set for December 22, 2010. The financial statements of Pacific Seafood Group and Ocean Gold Group are directly relevant to plaintiffs' basic theory of this case: defendants have conspired over the last decade to suppress ex vessel pricing for seafood inputs, resulting in a downward trend in the prices paid to fishermen while defendants have experienced an upward trend in margin and profitability. Ocean Gold Group produced its financial statements promptly without objection. Pacific Seafood Group has produced consolidated internal financial statements, but has produced only one audited financial statement. That was received late in the afternoon on December 7. The copy received contains redactions on 11 of 23 pages. According to Pacific Seafood Group's CFO, these audited financials have been prepared since 2000 by outside independent public accounting firms and are provided to Pacific Seafood Group's lenders. They should be easy to copy and produce.

Pacific Seafood Group consists of over 50 different entities. Plaintiffs' counsel and experts are not in a position to finalize multiple pleadings and declarations without a full understanding of Pacific Seafood Group's financials over the last decade. In addition, the deposition of Pacific Seafood Group president and CEO Frank Dulcich is scheduled for 8:15 a.m. on Friday, December 10. Unless complete copies of the audited financials are supplied

by noon on December 9, plaintiffs' counsel will not be in a position to depose Mr. Dulcich on issues related to Pacific Seafood Group's financials. Plaintiffs therefore move for an immediate order requiring that unredacted copies of Pacific Seafood Group's audited financials from 2000 through 2009 be delivered immediately to plaintiffs' counsel.

DATED this 8th day of December, 2010.

HAGLUND KELLEY HORNGREN JONES &  
WILDER, LLP

By: /s/ Michael E. Haglund

Michael E. Haglund, OSB No. 772030  
Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that on the 8th day of December, 2010, I served the foregoing

**PLAINTIFFS' MOTION TO COMPEL PRODUCTION OF PACIFIC SEAFOOD**

**GROUP AUDITED FINANCIAL STATEMENTS**, on the following by the following

indicated method(s):

Michael J. Esler  
Esler Stephens & Buckley  
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Attorneys for Ocean Gold Defendants

- ☐ by **emailing and mailing** a full, true and correct copy thereof in a sealed first-class postage prepaid envelope, addressed to the foregoing attorneys at their last known office address, and deposited with the United States Post Office at Portland, Oregon on the date set forth above.
- ☐ by causing a full, true and correct copy thereof to be **hand delivered** to the attorneys at their last known address listed above on the date set forth above.
- ☐ by sending a full, true and correct copy thereof via **overnight mail** in a sealed, prepaid envelope, addressed to the attorneys as shown above on the date set forth above.
- ☐ by **faxing** a full, true and correct copy thereof to the attorneys at the fax number shown above, which is the last-known fax number for the attorneys' office on the date set forth above.
- ☒ by transmitting full, true and correct copies thereof to the attorneys through the court's Cm/ECF system on the date set forth above.

/s/Michael E. Haglund  
Michael E. Haglund